

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GARY SCHMIDT,

Plaintiff,

Case No. 09-12808

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. No. 17)**  
**AND**  
**DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Doc. No. 11)**  
**AND**  
**GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. No. 16)**  
**AND**  
**DISMISSING CASE**

I.

This is a social security case. Plaintiff Gary Schmidt appeals from the final determination of the Commissioner of Social Security (Commissioner) that he is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. The magistrate judge issued a report and recommendation (MJRR) recommending that plaintiff's motion be denied, the Commissioner's motion be granted, and its findings affirmed.

II.

Neither party has filed objections to the MJRR and the time for filing objections

has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for summary judgment is DENIED. The Commissioner's motion for summary judgment is GRANTED and the findings of the Commissioner are AFFIRMED. This case is DISMISSED.

SO ORDERED.

Dated: May 14, 2010

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, May 14, 2010, by electronic and/or ordinary mail.

S/Julie Owens  
Case Manager, (313) 234-5160